

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CARINNE A. SILVERMAN-MADDOX,

Case No.

Plaintiff,

v.

Hon.

DELAWARE NORTH COMPANIES, INC.,
d/b/a Kid Rock's Made in America Restaurant,
DETROIT DISTRICT SPORTSERVICE, INC.,
TOP DOG RECORDS, INC., and
BOBBY MOSCOW LLC, jointly and severally,

Defendants.

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COMPLAINT AND DEMAND FOR TRIAL BY JURY

There is no other civil action pending in this Honorable Court or any other Court arising out of the same transaction and occurrence.

NOW COMES Plaintiff, **CARINNE SILVERMAN-MADDOX**, for her Complaint against Delaware North Companies, Inc., d/b/a Kid Rock's Made in America Restaurant, Detroit District Sportservice, Inc., Top Dog Records, Inc., and Bobby Moscow LLC, stating the following:

INTRODUCTION

1. Plaintiff Carinne Silverman-Maddox, was the only African-American bartender employed with the Defendants at the Kid Rock Made in America Restaurant until she was abruptly suspended and dismissed for allegedly overpouring a single drink. The suspension occurred on the first date Plaintiff decided to wear her hair natural, in a curly afro, instead of straightening it or putting it up like her Caucasian coworkers. The alleged violation is clearly pretextual as numerous Caucasian comparators openly poured drinks in the exact same manner. Further, Caucasian comparators were approached for committing identical or similar violations and were able to keep their jobs.

Following the alleged incident, Plaintiff was removed from the schedule and eventually was denied access to Defendants' scheduling application. However, she was not officially terminated until Defendants received a letter from Plaintiff's attorney notifying Defendants that Plaintiff contacted the Michigan Department of Civil Rights.

Within this Complaint, Plaintiff alleges that she received unequal treatment and was ultimately terminated based on her race and in retaliation for protected activity in violation of her rights under 42 U.S.C. § 1981, and Michigan's Elliot-Larsen Civil Rights Act, M.C.L. § 37.2101 *et. Seq.*

PARTIES

2. Plaintiff Carinne Silverman-Maddox is a multi-racial individual of both African-American and Jewish ancestry who was employed with the Defendants and resides in Oakland County, Michigan.

3. Defendant Delaware North Companies, Inc. is a foreign profit corporation headquartered in Buffalo, New York. Defendant Delaware North Companies has a registered business address in Oakland County, Michigan.

4. Defendant Detroit District Sportservice, Inc. is a foreign profit corporation and subsidiary of Defendant Delaware North Companies, Inc. incorporated under the laws of Delaware. Detroit District Sportservice, Inc. has a registered address of 229 Brookwood Dr. Suite 14. South Lyon, MI48178.

5. Defendant Top Dog Records, Inc., is a domestic corporation headquartered at 2000 Town Center Suite 1500, Southfield, MI, 48075.

6. Defendant Bobby Moscow, LLC, is a limited liability corporation headquartered at 2000 Town Center Suite 1500, Southfield, MI, 48075.

JURISDICTON AND VENUE

7. This Court has original jurisdiction of Plaintiff's § 1981 claims pursuant to 28 U.S.C. § 1331.

8. The amount in controversy exceeds \$75,000.00, exclusive of interest, costs and attorney fees.

9. Under 28 U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiff's state law claims.

10. This Court is the proper venue pursuant to 28 U.S.C. § 1391(b) as a significant amount of the acts and omissions giving rise to this complaint occurred in Wayne County.

GENERAL ALLEGATIONS

11. Plaintiff Carinne Silverman-Maddox is a multi-racial individual having both African-American and Jewish parents. Plaintiff is a member of a protected class based on her race.

12. Plaintiff began working as a bartender for Defendant Delaware North Companies ("Delaware North") and its subsidiary Defendant Detroit District Sportservice, Inc. at the Kid Rock Made in America Restaurant (the "Kid Rock Bar") located within the Little Caesars Arena on or around August 1, 2018. The Kid Rock Bar is located at 2645 Woodward Ave., Detroit, MI 48201.

13. Defendants Bobby Moscow, LLC, and Top Dog Records, Inc. are co-owners of the Kid Rock Bar.

14. Plaintiff was the only African-American bartender out of around fifteen bartenders at the Kid Rock Bar.

15. In her position, Plaintiff recognized favoritism by management to the same few Caucasian female bartenders. These bartenders consistently were scheduled to come in earlier than Plaintiff allowing them a larger portion of the tip-pool.

16. Until October 13, 2018, Plaintiff wore her hair straightened or similar to the Caucasian employees.

17. On October 13, 2018, Plaintiff wore her hair natural, or out in a curly “afro”, to the Kid Rock Bar for the first time. Plaintiff immediately noticed strange looks from the management. However, she continued to work without issue.

18. Around 7:00 p.m., Plaintiff was pulled into the office to meet with General Manager “Matt” (“GM Matt”) and Floor Manager Matt Hill (“Manager Matt”). They informed Plaintiff that she was allegedly witnessed overpouring a drink. Plaintiff disputed that she overpoured a drink and denied any allegation of intentionally overpouring. Plaintiff was notified that she would be suspended pending an investigation.

19. Prior to this incident, Plaintiff has never received any level of discipline or negative coaching regarding her job performance.

20. Plaintiff was astonished by the discipline as she was pouring drinks in the manner she was specifically trained to do and every bartender frequently free poured

drinks and there were insufficient measuring devices, or “jiggers”, for use at the Kid Rock Bar. Indeed, several of the measuring devices were brought in by the employee’s themselves and few, if any, were preapproved. On information and belief, the Kid Rock Bar purchased standard measuring devices after the termination of Plaintiff.

21. Plaintiff witnessed several Caucasian bartenders free pour drinks similar to the method Plaintiff was disciplined for in the presence of managers without receiving any discipline. Indeed, Plaintiff has even witness Caucasian managers free pouring drinks.

22. In one incident, Plaintiff witnessed a manager, Chad, free-pouring excessive amounts of alcohol into the Kid Rock Bar’s guitar shaped daquiris. Plaintiff informed Chad that she was unable to ring up, or bill, the drinks as doubles. Chad responded “F**k it. It’s only Malibu.” (Malibu is a type of coconut rum)

23. Additionally, on information and belief, the same managers who disciplined Plaintiff had previously instructed bartenders to “free pour drinks heavily” any time Kid Rock is present in the building.

24. Plaintiff later found out that on October 13, 2018, a Caucasian employee was caught not checking the IDs of customers, a significant violation of policy and Michigan Law, yet was not suspended or sent home. Instead, the Caucasian employee was simply given a verbal warning.

25. On information and belief, an additional Caucasian employee also only received a verbal warning for an unknown violation on October 13, 2018.

26. A few days into the suspension, Plaintiff attended a concert at the LCA and visited the Kid Rock Bar to check the status of her suspension. During this time, Plaintiff and her friend “Fiona” noticed several Caucasian bartenders free pouring shots without using measuring tools at all. They brought this fact to Manager Matt’s attention. However, he did not respond other than stating that he was “fighting for her.”

27. Plaintiff was never called back to return to work at the Kid Rock Bar. Instead, she learned she was terminated when she blocked from accessing the scheduling application.

28. On information and belief, a Caucasian female bartender named “Alex” was subsequently disciplined for allegedly overpouring drinks. However, the Caucasian employee was not terminated.

29. Plaintiff submitted formal charges of discrimination with the Michigan Department of Civil Rights against the named Defendants. Plaintiff plans to amend her Complaint to add additional claims pursuant to Title VII once she has been issued the Right to Sue.

30. On December 9, 2018, Plaintiff’s attorney sent a letter to Defendants requesting Plaintiff’s employee file, a litigation hold, and informing Defendants of Plaintiff’s contacts with the MDCR. (“Attorney Letter”) (***Exhibit A***) The submission of

this letter is considered protected activity under 42 U.S.C. § 1981, and Michigan's Elliot-Larsen Civil Rights Act, M.C.L. § 37.2101 *et. Seq.*

31. Although Plaintiff was removed from the schedule, Plaintiff was not officially terminated until December 14, 2018—in response to the Attorney Letter.

(Exhibit B)

COUNT I
RACIAL DISCRIMINATION - 42 U.S.C. § 1981

32. All preceding paragraphs are incorporated by reference.

33. Plaintiff is a member of a protected minority class.

34. As an employee, Plaintiff had a contractual employment relationship with Defendants.

35. Plaintiff was disciplined and terminated while performing at the same level as Caucasian comparators and allegedly engaging in the same conduct as Caucasian employees.

36. Plaintiff alleges that she received disparate treatment compared to Caucasian comparators in violation of her right to make and enforce contracts pursuant to 42 U.S.C. § 1981.

37. Plaintiff alleges that she was terminated in violation of her right to make and enforce contracts pursuant to 42 U.S.C. § 1981.

38. As a direct and proximate result of Defendant's unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of

vacation and sick days, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and has incurred attorney fees.

COUNT II
RETALIATION – 42 U.S.C. § 1981

39. All preceding paragraphs are incorporated by reference.
40. Plaintiff engaged in activity protected by 42 U.S.C. § 1981 when she pointed out to her manager that other Caucasian employees were openly committing the same violation she allegedly committed without issue and also when her attorney submitted a letter on her behalf notifying the Defendants of her contacts with the MDCR.
41. Defendant retaliated against Plaintiff and terminated her as a result of Plaintiff's attorney informing Defendants that she had contacted the MDCR. (*See Exhibits A and B*)
42. Defendant's termination of Plaintiff's employment on this basis violates 42 U.S.C. § 1981.
43. As a direct and proximate result of Defendant's unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of vacation and sick days, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation and loss of the

ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and has incurred attorney fees.

COUNT III
RACIAL DISCRIMINATION
ELLIOT-LARSEN CIVIL RIGHTS ACT, M.C.L. § 37.2101 et. seq.

44. All preceding paragraphs are incorporated by reference.
45. At all relevant times, Plaintiff and Defendants were covered by and within the meaning of the Michigan Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.*
46. Defendants treated and disciplined Plaintiff differently than similarly-situated Caucasian employees.
47. Plaintiff's race was a factor that made a difference in Defendants' decision with treatment and discipline to Plaintiff, including her termination.
48. Defendants' actions were intentional, with reckless indifference and in disregard of Plaintiff's rights and sensibilities.
49. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of vacation and sick days, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation, and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and incurred substantial liability for attorney fees.

COUNT IV
RETALIATION
ELLIOT-LARSEN CIVIL RIGHTS ACT, M.C.L. § 37.2101 et. seq.

50. All preceding paragraphs are incorporated by reference.

51. Plaintiff engaged in protected activity when she pointed out to her manager that other Caucasian employees were openly committing the same violation she allegedly committed without issue and also when her attorney submitted a letter on her behalf notifying the Defendants of her contacts with the MDCR.

52. As a result of Plaintiff's protected activity, Plaintiff was terminated.

53. As a direct and proximate result of Defendant's unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of vacation and sick days, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation, and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and incurred substantial liability for attorney fees.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Honorable Court:

- a. Declare that the aforementioned practices and actions of Defendants constitute unlawful practices in violation of 42 U.S.C. § 1981 and the ELCRA;
- b. Award Plaintiff all lost wages and benefits, past and future, to which she is entitled;
- c. Award Plaintiff appropriate equitable relief;

- d. Award Plaintiff compensatory damages;
- e. Award Plaintiff exemplary damages;
- f. Award Plaintiff punitive damages;
- g. Award Plaintiff reasonable attorney fees, costs and interest; and
- h. Award such other relief as this Court deems just and proper.

Respectfully submitted,

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DATE: January 29, 2019

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DEMAND FOR TRIAL BY JURY

Plaintiff Carinne Silverman-Maddox hereby demands for a trial by jury.

Respectfully submitted,

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DATE: January 29, 2019